

1 UNITED STATES DISTRICT COURT

2 DISTRICT OF UTAH

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5 RUSSELL G. GREER,

6 Plaintiff,

7 v.

8 JOSHUA MOON, publisher of
9 the website Kiwi Farms, et
al.,

10 Defendants.
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) Case No. 2:24-cv-00421
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13 BEFORE THE HONORABLE JARED C. BENNETT

14 ---

15 Monday, November 18, 2024

16 1:00 p.m. to 1:40 p.m.

17 Scheduling Conference

18 Rule 26(f) Conference

19 ---

20 Transcript prepared from an
21 electronically recorded hearing
22
23

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1 Monday, November 18, 2024; Salt Lake City, Utah

2 1:00 p.m.

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4 THE COURT: Let's go on the record in the case of
5 Russell Greer v. Joshua Moon, et al. This is case
6 2:24-cv-421, and we're here today for purposes of a
7 scheduling conference.

8 Before we get started, could I please have counsel
9 state their appearances. Let's begin -- well, I guess
10 Mr. Greer, representing himself, and then we have Mr.
11 Matthew Hardin representing the defendants.

12 All right. Let's go ahead and talk about setting
13 a schedule here. We were unable to do so through an
14 exchange between the parties. So let's go ahead and see if
15 we can get one set now.

16 What I'd like to do is just go through, and we're
17 only going to set fact discovery today. I'm not going to
18 set all the deadlines because I find that that's, frankly, a
19 waste of time, because we have, sometimes, things that pop
20 up, and we need to -- instead of adjusting a whole bunch of
21 dates and setting a trial date, which almost never holds,
22 I'm going to set fact discovery, deadlines, limits, and then
23 we'll set a status conference prior to the end of fact
24 discovery to make sure that we're on track to resolve any
25 unresolved discovery disputes, if there are any. And then

1 we'll go ahead and, from there, set the rest of the dates.

2 So this case, as it came back from the Tenth
3 Circuit, is one issue. And so that's going to be helpful
4 for us in terms of remembering what we have to do here,
5 which is deal with that one issue.

6 So let's talk about the fact discovery. So number
7 one, have the parties -- Mr. Hardin, have you had a chance
8 to do a Rule 26(f) conference, or should we count this today
9 as the Rule 26(f) conference?

10 MR. HARDIN: There has not been a conference. I
11 think that's the reason for some of the proposals that you
12 saw in the draft order. And so today is probably the best
13 Rule 26 conference we will have.

14 THE COURT: That's what I figured. So I just
15 wanted to make sure I wasn't missing something.

16 Do you agree with that, Mr. Greer, we haven't had
17 a Rule 26(f) conference yet?

18 MR. GREER: No, Your Honor, we have not.

19 THE COURT: Okay. Terrific. We'll just count
20 today, then, as the Rule 26(f) conference, and so we'll date
21 it the 18th of November 2024.

22 Mr. Greer, do you have any objection to receiving
23 the discovery and sending your discovery responses by email?

24 MR. GREER: No, I do not.

25 THE COURT: Mr. Hardin, any objection to that?

1 MR. HARDIN: No objection, except that I want to
2 clarify that it is an obligation to have a current email
3 address for that. There's been some difficulty in the past
4 with both physical addresses and email addresses. And I'm
5 happy to send things by email, so long as Mr. Greer
6 understands that I need an email to do that.

7 MR. GREER: Your Honor, the email that's on file,
8 that's my -- that's my current email, so there shouldn't be
9 any issues.

10 THE COURT: Okay, just to make sure: The email
11 that you currently have on file with the Court is the email
12 to which Mr. Hardin should be sending things?

13 MR. GREER: Yes. It's R-U-S-S-M, as in Monday,
14 A-R-K@gmail.com.

15 THE COURT: Okay. All right. So we'll note that
16 for the record. So Mr. Greer, you'll be responsible for
17 checking that email and making sure that you get timely
18 responses for the things that will be sent via email, okay?
19 Any questions about that?

20 MR. GREER: No, Your Honor, I understand.

21 THE COURT: Terrific. All right.

22 So in the court, in our local rules, we have a
23 standard protective order. The standard protective order
24 governs every single case that is filed, and it's useful for
25 several reasons. One of them is that a lot of times when we

1 don't have a standard protective order, people say, Oh, I
2 can't engage in discovery because we don't have a protective
3 order. That's not going to work here, because like I say,
4 we have a standard protective order.

5 So do the parties anticipate forming their own
6 protective order, or do you want to just use the standard
7 protective order?

8 Mr. Greer?

9 MR. GREER: No, I feel the standard protective
10 order is fine.

11 THE COURT: Mr. Hardin?

12 MR. HARDIN: Your Honor, I don't mean to not
13 respond to your question, but I think we're objecting to
14 entry of a protective order on the grounds that we don't
15 think that any is necessary at all in this case. No one has
16 established the need for one. And in fact, I believe even
17 Mr. Greer did not request one. However, if the Court is
18 going to impose one over our objections, the standard order
19 is fine.

20 THE COURT: We'll go ahead with the local rule and
21 keep the standard protective order.

22 All right. Let's talk about the discovery plan
23 here. So the subject of discovery is the one issue that the
24 Tenth Circuit remanded. And I think we're all familiar with
25 that. We've had a lot of writing on that, so we'll stick

1 with the one that's at issue here.

2 Let's talk about the number of depositions. By
3 rule, without further Court order, we can do up to ten.

4 Mr. Hardin, do you think ten is enough for your
5 side?

6 MR. HARDIN: Yes, Your Honor.

7 THE COURT: Mr. Greer, you don't have to do ten if
8 you don't want to, but the rules would allow you up to ten
9 without further Court approval. So what I'm going to do is
10 just put ten depositions in there for you, and you're free
11 to use any or as many of those ten as you would like. Does
12 that make sense?

13 MR. GREER: Yes, Your Honor. That makes sense.

14 THE COURT: Okay. The maximum number of hours for
15 each deposition by rule is seven. I don't intend on
16 changing that.

17 Do you see a reason to change it, Mr. Hardin?

18 MR. HARDIN: Yes, Your Honor, I do. I think that
19 it's only necessary to change that with respect to the
20 plaintiff himself and not with respect to any other witness.
21 I think that there are many reasons for that.

22 To begin with, I'll say that this case is one of
23 many. And so when it comes to issues such as damages, we
24 have to explore what damages he's claimed in a plethora of
25 other cases from coast to coast, and I think that's going to

1 take quite a while.

2 I would also suggest that because the plaintiff is
3 pro se and is not familiar with the process, despite his
4 numerous cases nationwide, and has expressed some hostility,
5 I do not expect a deposition to go particularly smoothly or
6 efficiently, such that I believe that the standard amount of
7 time is unlikely to be sufficient.

8 The third reason, Your Honor, is that I think that
9 this is a case in which the plaintiff has expressed that he
10 has a number of disabilities. We, of course, take him at
11 his word. The Court can hear him today. I believe that if
12 there is any accommodation needed due to his patterns of
13 speech or his disabilities, that, itself, could lengthen the
14 time of a deposition.

15 I'm happy to revisit this issue after we have
16 attempted to take a deposition, but I do believe that the
17 standard time frame is likely to be inadequate with respect
18 to Mr. Greer himself, due to all of those reasons. I'd be
19 happy to address them further.

20 THE COURT: How much time do you think you should
21 have? If seven is insufficient, what time is sufficient?

22 MR. HARDIN: So seven is basically a calendar day
23 with a break for lunch. I think what I'm asking for is
24 basically a day and a half to deal with those issues. And
25 so I believe my proposed order said ten hours. That would

1 allow us to spread over to the second day between nine and
2 noon. Again, if it's not necessary, of course I don't
3 intend to sit there for an extra three hours just for fun.
4 But my fear is that it would be necessary, and I think a day
5 and a half is appropriate.

6 THE COURT: Mr. Greer, what are your thoughts on
7 that?

8 MR. GREER: You know, to be honest, I wasn't
9 really expecting a lot of time with the deposition process.
10 I agree with Mr. Hardin, probably -- yeah, probably a day or
11 less.

12 THE COURT: I think Mr. Hardin is saying for your
13 deposition it should be a day and a half, just for yours
14 only. That's what I'm curious about, what your thoughts are
15 on that issue.

16 MR. GREER: I mean, yeah, that works for me. I
17 don't oppose that.

18 THE COURT: All right. So we'll go ahead and set
19 depositions at seven hours, except for the deposition of
20 Mr. Greer, which will be allowed to go ten.

21 The maximum number of interrogatories by rule is
22 25 without a court order. That includes all subparts to it.
23 And so I would --

24 Any objection to 25 for your side, Mr. Hardin?

25 MR. HARDIN: Yes, Your Honor. I think it's going

1 to mirror the comments that I made a moment ago. But I
2 think that the -- the volume of litigation that Mr. Greer
3 has filed is such, and his damages claims are such that I
4 think that we need to explore that. And while I agree that
5 in a normal case where both parties are represented by
6 counsel and proceeding normally, they would follow the
7 normal 25-question limit.

8 I think that this is a case in which Mr. Greer has
9 demonstrated that he is somewhat nonresponsive to questions
10 or somewhat hostile. And so I believe that if we are
11 limited to 25 questions, what's likely to happen is we will
12 just come back on motions to compel, and we will end up
13 answering and reanswering 25 questions over and over again.

14 I'm requesting, Your Honor, that you expand that,
15 and I'm requesting that you expand it quite substantially.
16 I think that 100 is the appropriate number. And I think
17 that that will really conserve resources as opposed to
18 wasting them.

19 THE COURT: If we're going to be coming back in on
20 25, why would we come back less on 100?

21 MR. HARDIN: Your Honor, my suspicion is that when
22 he raises his answers, or as I would characterize them,
23 "nonanswers," I think rephrasing and resubmitting a lot of
24 these things to accommodate his unique perspective is likely
25 to at least alleviate some of the issues, or hopefully

1 alleviate some of the issues without court intervention.
2 I'm not trying to come back on multiple motions to compel,
3 but that is my fear if we're conducting discovery in the
4 same way, is that we will end up back before you over and
5 over again.

6 THE COURT: I think the opposite is also true.
7 The more questions we have, the bigger the likelihood we're
8 going to have confusion and we're going to have motions. So
9 I'm not really sure I see the logic in 100. Even if it's
10 rephrasing, these are going to be duplicative and
11 repetitive.

12 It seems to me what we do is, we simply get a
13 motion to compel. I order exactly what it is that's
14 supposed to be answered, if anything, and we go from there.
15 It seems to me that by expanding this fourfold, we're going
16 to have far more disputes than we would if we just stopped
17 at 25.

18 But Mr. Greer, what are your thoughts on this?

19 MR. GREER: So I respectfully disagree with
20 Mr. Hardin's characterization. This is the only copyright
21 claim that I have filed against anybody. And I feel 25 is
22 well enough. As you said, the confusion if we have 100, so
23 I feel 25 is just fine.

24 MR. HARDIN: Your Honor --

25 THE COURT: Mr. Hardin?

1 MR. HARDIN: -- if I could address --

2 THE COURT: Of course.

3 MR. HARDIN: The final point that -- to respond to
4 what the Court said a moment ago, I think that in addition
5 to the issues I've raised about Mr. Greer's confusion, and
6 sort of teeing off what he just said about his case history,
7 our position is that Mr. Greer has filed lots of cases.
8 I'll agree this is the only copyright case. But in terms of
9 the damages that he has claimed, his damages have overlapped
10 significantly. And I think that we're entitled to probe
11 into his past litigation history and his current litigation
12 history in other cases to examine his claims for damages and
13 to see whether he is claiming the same damages from multiple
14 parties, asserting multiple theories of causation.

15 So because of his litigation history, I would at
16 least ask that you give us some leeway on interrogatories
17 that are not directly related to this case but are directed
18 to theories of damages and theories of causation in his past
19 cases, because I think that's going to be incredibly
20 relevant when it comes to his claim to damages in this case.

21 THE COURT: Explain to me how that would be
22 relevant to his damages in this case.

23 MR. HARDIN: So I think in this case, he's
24 claiming statutory and actual damages. The actual damages
25 are basically he says that his copyrights have lost value.

1 He can't earn a living because his copyrights have lost
2 value in the actions of the defendants. That's as I
3 understand his theory. Of course, we disagree with it.

4 He's raised numerous cases, including, I believe
5 most recently in the state courts of Nevada, where it is our
6 understanding that he says that the reason that he cannot
7 earn a living, the reason that he faces all these financial
8 struggles is either due to a financial corporation that gave
9 him a loan on a Nissan that was later repossessed, or due to
10 the actions of an apartment complex that he resided in in
11 Nevada.

12 So I think it's incredibly relevant in this case
13 to say: Is the reason that he's in these dire financial
14 straits due to the actions of the defendants, or is it due
15 to the actions of third parties that he's blamed for the
16 same basic harms in other litigation? And, I mean, it goes
17 on. There are other cases. That's just the most recent
18 that I'm aware of from the state courts of Nevada. I don't
19 even have a full history of all of his litigation. I have
20 what I would consider a reasonably complete history,
21 partially because other attorneys have filed it in other
22 cases.

23 But I think as to damages, Your Honor, competing
24 theories of causation and competing theories of what's
25 harmed Mr. Greer and how it's harmed Mr. Greer is going to

1 come up in this case.

2 THE COURT: So his damages in terms of this case,
3 the issue that remains in this federal case is whatever he
4 lost, allegedly, by this purported copyright infringement.

5 So how would -- I still am struggling to connect
6 the dots about how even if there's an allegation of
7 apartments and car lenders and all this stuff, aren't we
8 kind of limited to the universe of damage that's even
9 possible here? So, I mean, how would that even have
10 anything to do with what he allegedly lost as a result of a
11 copyright infringement?

12 MR. HARDIN: I think he's claiming -- and I think
13 the dots are difficult to connect, Your Honor, because
14 they're difficult for me, too. They're difficult to anyone
15 to understand his theories in various items of litigation.

16 But I think that the issue that I have is he's
17 claiming that there is a loss of ability to earn, that he
18 has these valuable creative talents that he cannot exercise
19 because my clients have ostensibly infringed his copyrights.

20 THE COURT: Is that even a viable damage that's
21 even legally available for this type of cause of action?
22 That doesn't sound like one of the few things you can get in
23 this type of a case.

24 MR. HARDIN: If the Court's position is that none
25 of these damages are admissible -- I can only read

1 Mr. Greer's claim. That's all I'm doing, is I'm responding
2 to his claim, and that's how I read his claim. And so I
3 think that's -- because how his claim reads, at least to me,
4 I have to defend against the claims that he's making,
5 whether it's a viable claim or not.

6 Ultimately, I think you're largely correct, that
7 at summary judgment or at the appropriate stage, I think
8 that we will, of course, say that his theories of damages
9 are inappropriate or unjustified.

10 THE COURT: So based on relevance and
11 proportionality, relevance being related to what is legally
12 available as a claim, I'm going to stick to the 25
13 interrogatories because, at this juncture, I think that's
14 going to be plenty. And if through the course of litigation
15 we learn more, that it's not, then, of course, you're
16 certainly free to move the Court for more. But it seems to
17 me at this point in time there really isn't -- we don't have
18 the facts behind increasing that quite yet at this juncture.
19 It's kind of speculative. And while there's certainly maybe
20 grounds for that speculation, it's not enough for me, in
21 terms of relevance and proportionality, to increase that
22 number.

23 All right. Let's talk about requests for
24 admission. I was going to propose 25, just to keep it the
25 same as interrogatories.

1 Mr. Greer, what are your thoughts about having 25
2 requests for admission available to you?

3 MR. GREER: Yeah, I feel 25 is adequate.

4 Your Honor, could I briefly address what
5 Mr. Hardin said earlier?

6 THE COURT: Sure. Do you want to -- I mean, do
7 you want to address it just to speak back, or is it relevant
8 to the number of interrogatories you think you should have?

9 MR. GREER: It's relevant, because I'm looking at
10 the statute right now, 17 U.S.C. 504 (inaudible) (1) is the
11 willful infringement statute. And it's a pretty
12 straightforward statute: The defendant engaged in acts that
13 infringed a copyright, and the defendant knew the acts
14 infringed. This has already gone before the Tenth Circuit.

15 So this is -- as you know, all the other claims of
16 defamation or whatnot have already been dismissed back in
17 2021. And so right now is just really a willful
18 infringement claim caused by Mr. Moon through his
19 contribution actions. And so honestly, I said before, I
20 feel 25 admissions and 25 interrogatories is fine.

21 THE COURT: Okay. That's what the Court's
22 ordered, so we'll go ahead and go from there. Like I say,
23 if it turns out as we learn through the course of the fact
24 discovery that more will be necessary, either you or
25 Mr. Hardin are more than able to petition the Court and seek

1 more interrogatories. I just need you to explain the basis
2 as to why more would be necessary, based on the facts that
3 have been learned during discovery. And that's certainly
4 something you can make a motion for at a later time, if
5 necessary.

6 MR. HARDIN: Your Honor, since we're treating
7 today as the Rule 26 conference, can the plaintiff shed some
8 light on his theories of damages and whether he intends to
9 claim these sorts of loss of earnings damages or, I guess
10 loss of ability to earn?

11 THE COURT: Sure. Mr. Greer, do you want to kind
12 of help us understand what the theories of damages are for
13 you here.

14 MR. GREER: The theory of damages, I actually have
15 been meaning to file a motion for leave to amend my
16 complaint, since I need to clarify some stuff. But really,
17 the damages are statutory. And it's just, as I said, 17
18 U.S.C. 504, that the Tenth Circuit already said it was
19 plausible that Mr. Moon infringed. And so basically what
20 we're litigating now is really a fair use defense, if
21 defendants have fair use or not. I thought, you know, it
22 was pretty straightforward what I was claiming, but if it
23 wasn't, I'm happy to amend my complaint.

24 THE COURT: I think the question, Mr. Greer, is in
25 terms of the damages, you're seeking statutory damages,

1 certainly. I mean, we understand that.

2 But the question is: What basis? Is it simply
3 just a loss of revenue that you could have sold things for,
4 but for the copyright infringement you can't now? That's
5 the question is, what is the basis of the damages you'll be
6 seeking?

7 MR. GREER: Yeah. So the market value is now --
8 like, I have more music that I've recorded. I can't release
9 it because this one site ***controlling it around, and the
10 users will -- I don't know. I don't know how they do it,
11 but they go off on these different sites and make sure no
12 one purchases anything else. As you saw -- as you saw in
13 the complaint, one of Mr. Moon's users uploaded one of the
14 MP3s of my songs, and they said, "Here's his song. No one
15 accidentally give him money." And the Tenth Circuit already
16 went through that.

17 And I'm sure some damages are statutory, but also
18 loss of market value, loss of really being able to launch a
19 career, really. And yeah, those are what I'm (inaudible)
20 here.

21 THE COURT: So when you say, it sounds like loss
22 of market value, you're talking about loss of the market
23 value of the music you want to put into the market; is that
24 what you're talking about?

25 MR. GREER: Yeah. I've been denied, really, the

1 opportunity, honestly. Like -- okay, here's an example,
2 Your Honor.

3 Maybe a few years ago, I had some entertainment
4 agents reach out to me, and we were talking, and then they
5 suddenly lost interest. And I asked them why. And they
6 said it was just because of all the online stuff about you.
7 And so basically, all of these Kiwi Farm people have gone
8 everywhere, just lambasted my name, and -- where I can't,
9 like, market anything else. And I'm just like, I'm just
10 stuck between a rock and a hard place.

11 So really, yeah, so like you said, the loss of the
12 market value, of past damages, and damages of -- prospective
13 damages. I can't remember that name. I'd have to look at
14 what that is. But yeah, that's basically the gist.

15 THE COURT: All right. So one of the things you
16 have to consider is that the slander claim that was filed
17 under state law is no longer part of this lawsuit. So I
18 mean, it seems to me we're going to be limited to what the,
19 as you mentioned, what the statute allows and, among other
20 things, the market value.

21 So because of all that, it seems to me that what
22 we've got set for depositions and the number of
23 interrogatories and the number of the requests for admission
24 would be sufficient, at least at this time based on what we
25 now know, to move forward with fact discovery.

1 So let's talk about a deadline to serve written
2 discovery.

3 Given the numbers that we've got, up to 25,
4 potentially more, Mr. Hardin, what do you propose for the
5 deadline to serve written discovery for both parties?

6 MR. HARDIN: Your Honor, could you give me just a
7 moment? I want to check my calendar and his past
8 correspondence.

9 THE COURT: Sure.

10 (Pause in the proceedings.)

11 MR. HARDIN: So I think if Your Honor is
12 requesting that we serve all of our fact discovery at once,
13 I'd be happy with a deadline of the end of this year. But I
14 think that staggering sequentially, such that we serve maybe
15 five of these 25 and wait for responses, makes sense, again,
16 because of all the reasons that I've expressed previously
17 about trying to avoid multiple trips back.

18 So I'm requesting that we be given six months to
19 serve all of our fact discovery based on that, because I
20 intend, if there's enough time, to serve this discovery
21 somewhat sequentially. But if the Court wants to accelerate
22 that based on its comments earlier, I understand.

23 THE COURT: Mr. Greer, what are your thoughts?
24 When should the last day to serve written discovery be?

25 MR. GREER: I agree with what Mr. Hardin was

1 saying at first about the end of the year. I feel that's
2 enough time.

3 THE COURT: All right.

4 MR. GREER: I mean, for like --

5 THE COURT: Maybe --

6 MR. GREER: -- for our discovery.

7 THE COURT: All right, for your fact discovery,
8 that might be -- it sounds like the defendants' written fact
9 discovery may be more extensive than yours. So if you're
10 saying -- let's see here, so if we go six months, we're
11 talking about May of 2025. Let's set a deadline for written
12 fact discovery of May 16th, 2025, for written fact
13 discovery.

14 And then we can set a deadline, a fact-discovery
15 deadline of, let's say, June 30 for the close of fact
16 discovery.

17 Any objections to that, Mr. Hardin?

18 MR. HARDIN: No, Your Honor.

19 THE COURT: Mr. Greer?

20 MR. GREER: No, Your Honor. I was just writing it
21 down.

22 THE COURT: Okay. Terrific. All right. So we'll
23 set the 30th of June 2025 for the close of fact discovery.

24 Also, requests for production that are tied up in
25 those written discovery requests, I'm also going to set

1 those at 25, again, subject to more based on what we learn
2 during fact discovery. So just to clarify: The number of
3 depositions will be ten. Every one of them will be limited
4 to seven hours, except for Mr. Greer's. There will be a
5 maximum of 25 interrogatories per party; requests for
6 admission, 25; and requests for production, 25, subject to
7 more if there's factual good cause for that as we go through
8 discovery. The deadline to serve written discovery will be
9 May 16, 2025. And the close of fact discovery will be the
10 30th of June 2025.

11 Let's now turn to the deadline for amending
12 pleadings. I was going to suggest the 31st of this year.
13 So it would be December 31st for the plaintiff to file an
14 amended complaint, and then we'd set a couple of weeks after
15 that for the defendant to file any amended answer.

16 Your thoughts on that, Mr. Hardin?

17 MR. HARDIN: Your Honor, I don't think that the
18 Court should set a deadline. This may partially be tied up
19 into the merits. I think our position is that this
20 litigation is four years old. Any reasonable deadline would
21 have long since passed. And at this point, setting a
22 deadline is inappropriate. Of course, we can raise all
23 those arguments on the merits if a motion for leave is
24 filed. But that's our position, Your Honor.

25 THE COURT: Mr. Greer, your thoughts on amending

1 the pleadings?

2 MR. GREER: No. I feel December 31st is fine.

3 THE COURT: All right. The Court will go ahead
4 and set -- so the plaintiff has until the 31st of December
5 to amend pleadings. The defendants' response -- or answer,
6 amended answer, will be 14 days after the amended complaint
7 is filed. Of course, if Mr. Hardin needs additional time.
8 He can move for it. It will be liberally granted. But
9 we're going to set December 31st as the amended pleading
10 deadline.

11 That will also include -- the deadline to adjoin
12 any additional parties will still be those same deadlines,
13 the 31st of December.

14 All right. So let's now talk about a status
15 conference that we're going to set prior to the close of
16 fact discovery. And I want to make sure that we've got
17 everything moving along. So what I would like to do is
18 set -- let's set June 2nd. That would be Monday, June 2nd.
19 We're going to set it at 10:00 a.m. Mountain Daylight
20 Savings Time for a status conference to see how we're going
21 along with fact discovery, and to make sure -- and then if
22 we need to set some more deadlines; for example, if we need
23 expert discovery, we can set those. If we don't, we can
24 also set summary judgment briefing deadlines and set all
25 that at that June 2nd status conference that we'll have near

1 the close of fact discovery.

2 All right. Let's talk about just the nuts and
3 bolts of how this is going to go forward. For anyone,
4 Mr. Greer and Mr. Hardin, if you want to know how I call
5 balls and strikes on discovery, if you go to my webpage on
6 the court website, I have some videos that I have that tell
7 you exactly what I look for, exactly how I interpret the
8 rules relating to interrogatories, relating to Rule 34
9 productions, relating to initial disclosures.

10 All of those things -- initial disclosures will be
11 due 14 days after today. That's by rule, so I'm not really
12 setting a deadline, other than to remind you of the rule
13 that you have to exchange initial disclosures as part of
14 this.

15 But if you have any questions about how I'm going
16 to interpret the rules, you can watch how I do it, and
17 hopefully that will help you make good decisions as you're
18 negotiating, where necessary, any discovery disputes that
19 you might have.

20 Mr. Greer, where you're representing yourself, I'd
21 strongly recommend that you take a look at those videos and
22 kind of help orient yourself as to how the process works
23 just because it will be -- that's the standard that I'll
24 hold the parties to, and that's something you'll need to
25 take a look at.

1 If there are any issues during a deposition, feel
2 free to call my chambers. What I would ask you to do is
3 wait until the end of the deposition, where you kind of have
4 all the disputes that are lined up, and then we can address
5 them all at once instead of doing it piecemeal.

6 Now, if you hit an impasse and you just simply
7 can't progress without addressing the issue, I'm certainly
8 happy to jump on the phone or Zoom or whatever is necessary
9 to get that resolved. But to the extent you can, if you can
10 save up whatever disputes that occur in a deposition and we
11 can hit them all at once, that would be preferred, I think,
12 for efficiency purposes, both for you and the for the Court.

13 I'm trying to think if there is any other
14 outstanding issue that we need to talk about in terms of
15 just the how-to going forward.

16 Mr. Hardin, do you have any questions for me about
17 how you'll need to make motions or how to do any discovery
18 issues that we've talked about?

19 MR. HARDIN: Your Honor, did I understand the
20 Court is deferring the issue of expert discovery, such that
21 we do not have expert deadlines at this point?

22 THE COURT: Correct. We'll set those at the
23 status conference, if we need those.

24 MR. HARDIN: Thank you. Then no questions.

25 THE COURT: All right. Mr. Greer, any questions

1 for me about how this is going to go forward?

2 MR. GREER: Your Honor, I have everything all
3 written down, and so I will definitely check out your
4 webpage and watch those videos. But no, I don't have any
5 questions.

6 THE COURT: All right. So what we will do, is we
7 will issue a scheduling order in the near future, probably
8 at end of today or early tomorrow that will have all of
9 these dates in there, all the limitations that we've set,
10 and then we will go ahead and move forward.

11 One other issue I want to make you all aware of.
12 So under Local Rule 37-1, which kind of governs discovery
13 disputes, there is, of course, the requirement to meet and
14 confer when possible. But also, these discovery disputes
15 need to be -- there has to be a motion to the Court within
16 45 days of when the letter from the requesting party
17 notifying the responding party that their responses are
18 inadequate, there's a 45-day deadline by rule by which we
19 need to have this resolved. Now, of course, if you're
20 working on a solution, you can move to extend that 45-day
21 deadline. But if we blow past that 45-day deadline for
22 resolving any outstanding discovery disputes, there is a
23 chance, a fairly significant chance, that that discovery
24 dispute will simply be nullified by failure to raise it
25 timely before the Court. So we'd like to keep this

1 litigation moving on track. The last thing we want to do is
2 bank all of the discovery disputes that may occur for the
3 end and use that as a bargaining chip to extend fact
4 discovery. If there's an issue, I'd like to address it
5 sooner rather than later.

6 I appreciate the parties' concern about consuming
7 court time, but frankly, given the litigious nature of this
8 case already, I'm fully planning on investing time in it,
9 and we're not going to mess around. We're simply going to
10 get to business, and we're going to get this discovery done.
11 And we'll get this case set up either for dispositive
12 motions, or we'll get it set for trial.

13 So I would just urge you to please abide by Local
14 Rule 37-1 in terms of the timeliness of any discovery
15 disputes that may occur. And of course, those videos,
16 hopefully, should be helpful in providing you information
17 about how I call balls and strikes on those issues.

18 Mr. Greer, is there anything else we need to take
19 up today on your behalf?

20 MR. GREER: No, Your Honor, there is not.

21 THE COURT: Mr. Hardin, anything further on behalf
22 of your clients?

23 MR. HARDIN: Nothing from the defense, Your Honor.

24 THE COURT: All right. Thank you, everyone.
25 We'll be in recess.

(The matter concluded at 1:40 p.m.)

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COURT REPORTER'S CERTIFICATE

State of Utah)
 ss.
County of Salt Lake)

I, Michelle Mallonee, a Registered Professional Reporter in and for the State of Utah, do hereby certify:

That the proceedings of said matter was reported by me in stenotype and thereafter transcribed into typewritten form;

That the same constitutes a true and correct transcription of said proceedings so taken and transcribed;

I further certify that I am not of kin or otherwise associated with any of the parties of said cause of action, and that I am not interested in the event thereof.

WITNESS MY HAND at Salt Lake City, Utah, this 21st day of November 2024.



Michelle Mallonee, RPR, CCR
Utah CCR #267114-7801
Expires May 31, 2026